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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------|-------------|----------------------|---------------------|------------------|
| 10/658,578 | 09/09/2003 | Ed H. Frank | 14181US02 | 3394 |
| 23446 | 7590 | 02/01/2010 | EXAMINER | |
| MCANDREWS HELD & MALLOY, LTD | | | | TRAN, PHUC H |
| 500 WEST MADISON STREET | | | | |
| SUITE 3400 | | | | |
| CHICAGO, IL 60661 | | | | |
| | | | | 2471 |
| ART UNIT | | PAPER NUMBER | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/658,578 | FRANK ET AL. | |
| | Examiner | Art Unit | |
| | PHUC TRAN | 2471 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 November 2009.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 29-53 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 29-35,37-48,50,51 and 53 is/are rejected.
 7) Claim(s) 36,49 and 52 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Amendment

Applicant's arguments with respect to claims 29-53 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 29-35, 37-49, 50-51 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miyagi et al. (U.S. Patent No. 5894471).
 - With respect to claims 29, 32, 37, 40, 48 and 45, Miyagi teaches a method for bandwidth management and sharing in a hybrid wired/wireless local area network (e.g. the Fig. 1 shows the network management), the method comprising:

reserving bandwidth for one or more of a first access device, a first access point and/or a first switch (e.g. the bandwidth reserve for network equipment such as Fig. 6 A & B);

in response to a communication session associated with said one or more of said first access device, said first access point and/or said first switch, allocating at least a portion of said reserved bandwidth for use by said one or more of said first access device, said first access point and/or said first switch (e.g. the total bandwidth allocatable to PVCCs);

utilizing said at least a portion of said reserved bandwidth during said communication session (e.g. Fig. 7 shows the portion of bandwidth allocated to PVCCs); and

Miyagi explicitly teaches utilizing at least an unused remaining portion of said reserved bandwidth during at least a second communication session (e.g. col. 8, lines 45-50), therefore it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to understand that the remaining bandwidth is used for other PVCCs in the network.

- With respect to claims 30, 38 and 46, Miyagi also teaches receiving a request for bandwidth by one or both of said first and/or a second access points from one or both of said first and/or a second access devices (e.g. col. 11, lines 1-4 & lines 30-33), wherein one or more of said second access device, said second access point and/or a second switch utilize said unused remaining portion of said reserved bandwidth (e.g. col. 8, lines 45-50).

- With respect to claims 31, 39 & 47, Miyagi further teaches receiving a request for bandwidth by one or both of said first and/or second switches from one or both of said first and/or second access points (e.g. col. 11, lines 1-4 & lines 30-33).

- With respect to claims 33-35, 41-43 and 49-51, Miyagi discloses wherein said reserving comprises reserving said bandwidth based on a device type of said first and/or a second access devices, wherein one or more of said second access device, a second access point and/or a second switch utilize said unused remaining portion of said reserved bandwidth (e.g. the SVCCs and PVCCs).

- With respect to claim 53, Miyagi also teaches wherein said at least one processor is one or more of a control processor, a bandwidth management controller, a quality of service

controller, a load balancing controller, a session controller and/or a network management controller (e.g. Fig. 2).

Allowable Subject Matter

Claims 36, 49 and 52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUC TRAN whose telephone number is (571)272-3172. The examiner can normally be reached on 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHI PHAM can be reached on 57127233179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PHUC H TRAN/
Primary Examiner, Art Unit 2416